IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.20582 OF 2006

Between:

M/s Ankit Packaging Limited

..... PETITIONER

AND

The Appellate Deputy Commissioner (CT)
Punjagutta Division, Nampally and another

....RESPONDENTS

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.20582 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **"... Hon'ble Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the impugned order of the first respondent in A.R. Sl.No.B/41/2006, dt. 4.7.2006 rejecting the appeal filed by the petitioner on technical grounds is illegal, contrary to law and without jurisdiction and grant the consequential relief by setting aside the said order and direct the 1st respondent to admit the appeal without insisting on payment of admitted tax of Rs.8,32,933/-**
> **and issue any other appropriate writ, order or direction as this Hon'ble Court may deem fit and proper"**

The petitioner is a limited company and a registered dealer on the rolls of the 2nd respondent carrying on the business of manufacturing flexible packaging material. For the assessment year 2002-2003, the petitioner's liability for tax under the CST Act (for short 'the Act') was assessed by the 2nd respondent by an order dated 31.3.2006. Aggrieved by the same, the petitioner carried the matter in appeal before the 1st respondent.

Though it may not be very necessary for the purpose of the present order, briefly the defence of the petitioner appears to be that the petitioner is entitled for certain benefits under the incentive scheme, which were denied by the assessing authority and the matter

to be considered by the appellate authority.

However, the petitioner's appeal was rejected on the ground that the petitioner did not comply with the mandatory requirements for maintaining the appeal like; the deposit of undisputed tax etc. Hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader.

It is asserted by the petitioner that subsequent to the rejection of the appeal, the statutory condition of depositing 12 ½% of the disputed tax though was made, the petitioner could not produce proof of the same before the appellate authority by inadvertence. Insofar as the default in complying with the requirement of depositing the undisputed amount of tax is concerned, the learned counsel for the petitioner submits that due to financial stringency of the petitioner, the same could not complied with and if an opportunity is given now, the petitioner is willing to comply with that condition also. Therefore, prays for an opportunity of having his appeal decided on merits.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the stage of admission itself, directing the 1st respondent to consider the appeal of the petitioner which was rejected by his order dated 4.7.2006 on condition that the petitioner produces proof of compliance with the statutory conditions of pre-deposit, within a period of 4 weeks from the date of receipt of a copy of this order.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

28TH SEPTEMBER, 2006

Note: CC in one week.
Bo knk

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No. 20582 OF 2006
(Per Sri Justice J.Chelameswar)

28TH SEPTEMBER, 2006